

WARREN R. HAAS

IBLA 82-873

Decided August 4, 1982

Appeal from decision of the Montana State Office, Bureau of Land Management, rejecting simultaneous oil and gas application, M 52608.

Affirmed.

1. Oil and Gas Leases: Applications: Drawings--Oil and Gas Leases: Applications: Filing--Oil and Gas Leases: First Qualified Applicant--Oil and Gas Leases: Noncompetitive Leases

A simultaneous oil and gas lease application is properly rejected where the executed lease forms were not received by BLM within 30 days from the receipt of notice.

APPEARANCES: R. Hugo C. Cotter, Esq., for appellant.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Warren R. Haas appeals from a decision of the Montana State Office, Bureau of Land Management (BLM), dated May 17, 1982, rejecting simultaneous oil and gas lease application, M 52608, which received first priority for parcel MT 31 in the July 1981 drawing. BLM rejected the application because the executed lease agreement was not filed within 30 days from the date of receipt of the notices required by 43 CFR 3112.4-1(a). That regulation provides in pertinent part: "The executed lease agreement and the applicant's rental payment shall be filed in the proper Bureau of Land Management office within 30 days from the date of receipt of notice. Timely receipt of the properly signed lease and rental constitute the applicant's offer to lease."

[1] The notice dated March 24, 1982, requesting return of the signed lease forms was received by appellant on March 29, 1982. A copy of the notice and the rental were received by BLM on April 28, 1982. The signed lease forms were received April 30, 1982, 2 days after the time allowed for compliance expired. Therefore, BLM properly rejected appellant's application in accordance with 43 CFR 3112.6-1(d), which provides that the application of the first qualified applicant shall be rejected if an offer is not filed in accordance with 43 CFR 3112.4-1.

In his statement of reasons, appellant asserts that he neglected to include the executed lease agreement with his payment because he mailed the payment from his home and the lease agreement was at the office. Appellant explains that he was home in April because of the death of his son in Korea.

BLM cannot accept executed lease forms after "30 days from the date of receipt of notice" for the reason that the rights of the second and third qualified applicants have intervened. See Redwood Empire Land and Royalty Co., 64 IBLA 267 (1982); Ballard E. Spencer Trust, Inc. v. Morton, 18 IBLA 25 (1974), aff'd, Ballard E. Spencer Trust, Inc., 544 F.2d 1067 (10th Cir. 1978).

Appellant contends that the late filed executed lease forms should not cause an oil and gas lease application to be rejected citing Carol Dolezal, 56 IBLA 52 (1981). That case, however, involves circumstances different from those in the present case. In Carol Dolezal, supra, appellant was required to submit a signed certification within 30 days that no false statements had been made in the application. This information was requested after appellant had filed her application and was additional information. In the present case, the delinquently received documents were the executed lease forms, timely receipt of which constitutes the offer to lease. 43 CFR 3112.4-1(a). Unlike the documentation in Dolezal, executed lease forms are required by regulation to be filed within 30 days, and 43 CFR 3112.6-2(d) specifically requires rejection when there is lack of compliance with 43 CFR 3112.4-1(a). Although appellant timely filed the rental, 43 CFR 3112.4-1(a) states that "timely receipt of the properly signed lease and the rental constitutes applicant's offer to lease." (Emphasis added.) Regardless of the legitimacy of the reasons for late filing, the regulations make no provision for consideration of such reasons, and an offer which fails to comply with 43 CFR 3112.4-1(a) must be rejected.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

Bruce R. Harris
Administrative Judge

Edward W. Stuebing
Administrative Judge

